IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.19706 of 2006
Date of Decision: 12.12.2006

S.K.Samnol and others

Petitioners

versus

The Secretary Cooperation-cum-Home Secretary, Chandigarh and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE PRITAM PAL

Present: Shri A.K.Chopra, Senior Advocate with
Shri Rajbir Sihag, Advocate for the petitioners
Shri Rajesh Garg, Advocate for respondent No.4

Jasbir Singh, J. (Oral)

Notice of motion.

Shri Rajesh Garg, Advocate accepts notice on behalf of respondent No.4.

This writ petition has been filed to lay challenge to the order dated 12.10.2006 (Annexure P/9), vide which, appeal filed by the Society has been accepted and order Annexure P/8, vide which several disputes were transferred to the Additional Registrar Cooperative Societies, for adjudication and draw of lots for allotment of flats, in dispute, was stayed, has been set aside.

It is not in dispute that earlier also dispute came to this Court and while disposing of CWP No.9513 of 2006 on 18.8.2006, following order was passed by this Court:-

"Dispute in this writ petition pertains to allotment of flats amongst the members of respondent No.9, the Society. The writ petition was filed by making the following prayers:-

> *"(i) That a writ in the nature of mandamus or any other suitable writ order or direction be issued directing the respondent Nos.1 to 5 to act in accordance with law and to decide the pending reference, the complaints lying before them as un-disposed of.*
>
> *(ii)That in the peculiar circumstances respondent No.9 be restrained by drawing the lots fixed on 18th as disclosed by the President of respondent No.9 on 7.6.2006 before Assistant Registrar respondent No.4 in the reference of Shri S.K.Samnol. The counsel for the petitioner was also present on 7.6.2006 when the President of the respondent Society disclosed this Factum of 18.6.2006 as the date of drawing of the lots."*

In reply, it has been said that on a complaint made, matter has already been referred to an Arbitrator who is looking into dispute inter-se the parties. In view of the disputed questions involved, in this case, it is not possible for this Court to decide questions raised, in this Writ Petition. However, keeping in view interest of justice, the Arbitrator/ Additional Registrar, Cooperative Societies, Chandigarh is directed to decide the pending references with regard to the disputes of the members and the Society, preferably within two months from today. Parties are directed to cooperate with the Arbitrator and are advised not to seek unnecessary adjournments.

The interim order granted by this Court on 15.6.2006 shall continue for a period of ten days. During this period, liberty is granted to the petitioner to move an application before the Arbitrator for stay, who shall pass an order, as per law, without being influenced by the interim order passed by this Court.

This writ petition stands disposed of.

Copy of the order be given dasti under signatures of Court Reader."

Thereafter, vide order Annexure P/8 dated 30.8.2006, all the pending disputes were transferred to the Additional Registrar Cooperative Societies and he was asked to adjudicate upon all those matters as an Arbitrator. Vide that order stay of allotment of flats was also granted, as referred to above. In appeal, order Annexure P/8 has been set aside, in toto. Relevant portion of the order Annexure P/8 reads thus:-

"Since the Additional Registrar, Cooperative Societies, U.T., Chandigarh has been appointed vide notification dated 24/25.8.2006 to assist the undersigned, all the references referred to above are entrusted to him for adjudication after hearing the parties concerned on merit within the time stipulated by the Hon'ble High Court in the orders dated 18.8.2006 passed in the civil writ petition No.9513 of 2006. In the meanwhile the stay to hold draw of lots of the flats shall be continued till the disposal of the said references."

Reading of the portion of the order, extracted above, clearly shows that it is in two parts, vide first part, pending disputes have been referred to the Arbitrator and vide second part, stay has been granted.

Setting aside of the first part, runs contrary to the directions issued by this Court in order dated 18.8.2006, reproduced in earlier part of the order, as such, it cannot be sustained.

Facing with the situation, Shri Garg made a very fair statement that order Annexure P/9 be modified to the extent that all the matters pending before the Additional Registrar/ Arbitrator shall continue and he be directed to dispose of the same as per directions, earlier issued by this Court, vide order Annexure P/7. He further states that three flats shall be kept reserved for the petitioners, if draw of lots is permitted to be conducted on the date fixed.

We feel that in view of fair stand taken by the counsel for the respondent-Society, no case is made out for interference at this stage and we direct the Arbitrator to act as per directions issued by this Court in order dated 18.8.2006 and also order Annexure P/8 dated 30.8.2006. The Society is directed to reserve three flats for the petitioners (by putting their names in draw of lots, however, allotment letter/certificate be not issued to them). It is made clear that any allotment made, to any member of the Society, shall be subject to the ultimate decision by the Arbitrator. It is further made clear that the Arbitrator shall not be influenced by any observations made on merits, by respondent No.1, while passing order dated 12.10.2006 (Annexure P/9).

Disposed of.

(Jasbir Singh)
Judge

December 12, 2006 **(Pritam Pal)**
gk **Judge**